

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
OPPOSING CALIFORNIA STATE SENATE BILL 49**

WHEREAS, on January 3, 2007, State Senator Carole Migden introduced in the California State Senate proposed legislation, SB 49, to prohibit a local agency or redevelopment agency from providing financial assistance to a sport stadium project that involves the relocation of a professional sports team franchise from the territorial jurisdiction of one local agency to another within the same market area; and

WHEREAS, the legislation is intended to preclude public-private financial assistance that includes but is not limited to: bonds or other forms of indebtedness, loans, grants, subsidies, guaranties, tax incentives, conveyance of real property, rebates, rent credits and other forms of direct or indirect financial assistance to the professional sports franchise, any of its developer partners, or any of their affiliates, contractors, or agents in connection with a sports stadium project; and

WHEREAS, the proposed statewide legislation is intended to apply specifically to a franchise or other entity operated for the exhibition of National Football League games, and any affiliate organized to develop or operate a sports stadium; and

WHEREAS, the San Francisco 49ers, an NFL franchise that has its headquarters and training facilities in the City of Santa Clara and currently plays its home games at Candlestick Park in San Francisco, has publicly stated its interest to move all of its operations outside of San Francisco and is considering the City of Santa Clara; and

WHEREAS, the proposed statewide legislation's definition of "market area" is either a geographic area that is recognized by the NFL as the territory for a professional sports franchise up to 100 miles or any other larger geographic area as the relevant market for the professional sports franchise up to 100 miles, the real intent of said legislation is to specifically prohibit a move by the San Francisco 49ers from the City of San Francisco to the City of Santa Clara or any other Bay Area municipality; and

WHEREAS, the San Francisco 49ers, already an economic, social and recreational asset for all the cities in the Bay Area, by moving closer to Milpitas would increase economic, social and recreational benefits for our residents; and

WHEREAS, the passage of SB49 would eliminate the ability of Milpitas and other municipalities to reap such benefits and would force the San Francisco 49ers out of the Bay Area entirely.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milpitas opposes Senate Bill 49 due to its deleterious effects on Milpitas' economy and quality of life and those of our neighboring cities and counties.

PASSED AND ADOPTED this ____ day of _____, 2007, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

Introduced by Senator Migden

January 3, 2007

An act to add Section 53084.5 to the Government Code, and to add Section 33426.8 to the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 49, as introduced, Migden. Local government: financial assistance: sports franchises.

Existing law prohibits a local agency or redevelopment agency from providing any form of financial assistance to specified business entities when a business entity is relocating from the territorial jurisdiction of one local agency to another within the same market area, as specified.

This bill would prohibit a local agency or redevelopment agency from providing financial assistance to a sports stadium project that involves the relocation of a professional sports franchise from the territorial jurisdiction of one local agency to another within the same market area, as specified. The bill would provide that this prohibition does not apply to local agency assistance in the construction of public improvements that serve all or a portion of the jurisdiction of the local agency, as specified, and would provide the home local agency, as defined, the right to assert a violation of these provisions as a claim or defense in judicial proceedings.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53084.5 is added to the Government
2 Code, to read:

3 53084.5. (a) Notwithstanding any other provision of law,
4 except as provided in subdivision (b), a local agency shall not
5 provide any form of financial assistance to a sports stadium project
6 that involves a professional sports franchise relocating from the
7 territorial jurisdiction of a home local agency to the territorial
8 jurisdiction of another local agency but within the same market
9 area.

10 (b) This section shall not apply to local agency assistance in the
11 construction of public improvements that serve all or a portion of
12 the jurisdiction of the local agency, that provide significant
13 community benefits to an area larger than the site of the sports
14 stadium project, and that are not required to be constructed as a
15 condition of developing the sports stadium project. This section
16 shall not prohibit assistance in the construction of public
17 improvements that are being constructed for a development other
18 than the sports stadium project.

19 (c) The home local agency shall have the right to assert a
20 violation of this section as a claim or defense in a judicial
21 proceeding and obtain injunctive, declaratory, or other appropriate
22 relief to enforce this section.

23 (d) As used in this section:

24 (1) "Financial assistance" includes, but is not limited to, any of
25 the following:

26 (A) Any bonds or other forms of indebtedness, including, but
27 not limited to, any tax allocation bonds or any other provision of
28 tax increment, whether on a pay-as-you-go basis or otherwise.

29 (B) Any loans, grants, subsidies, guaranties, or payments for
30 any costs of the sports stadium project or the use of the sports
31 stadium.

32 (C) Any lease or license of real property, or an interest in real
33 property, at less than its fair market value, including, but not limited
34 to, any rent credits or free rent period.

35 (D) Any sale or other conveyance of real property, or an interest
36 in real property, at less than the fair market value.

37 (E) Any tax incentive, including, but not limited to, tax
38 exemptions, credits, rebates, reductions, or moratoria, including

1 any payment based on the amount of taxes generated by the sports
2 stadium project.

3 (F) Any acquisition of real property or any interest in real
4 property to facilitate the assembly of the site for the sports stadium
5 project, including any acquisition, by voluntary sale or otherwise,
6 with public funds or with funds provided by the professional sports
7 franchise or any of its development partners.

8 (G) Any payment for, or forgiveness of, or reduction in fees.

9 (H) Any approval to provide for tax-exempt financing of any
10 part of the sports stadium project, including, but not limited to,
11 any bonds created by or recognized under any provision of the
12 Internal Revenue Code that allow private entities to use the
13 proceeds of tax-exempt bonds, such as industrial development
14 bonds or any other economic development conduit revenue bonds.

15 (I) Any other form of direct or indirect financial assistance to
16 the professional sports franchise, any of its developer partners, or
17 any of their affiliates, contractors, or agents in connection with the
18 sports stadium project.

19 (2) "Home local agency" means the local agency that has
20 jurisdiction over territory in which there is a sports stadium that
21 the professional sports franchise has played its home games in for
22 more than 30 years and where the professional sports franchise
23 has incorporated the name of the home local agency in the name
24 by which the franchise is commonly known.

25 (3) "Local agency" means a chartered or general law city, a
26 chartered or general law county, or a city and county. "Local
27 agency" does not include a redevelopment agency that is subject
28 to Section 33426.8 of the Health and Safety Code.

29 (4) "Market area" means either (i) a geographic area that is
30 recognized by the National Football League as the territory for a
31 professional sports franchise or (ii) any other larger geographic
32 area that is described in publications of bond rating agencies or
33 independent and reputable sports market research organizations
34 as the relevant market for the professional sports franchise. A
35 "market area" shall not extend further than 100 miles, as measured
36 by the most reasonable route on roads between two points, starting
37 from the sports stadium from which the professional sports
38 franchise is relocating and ending at the facility outside the home
39 local agency to which the professional sports franchise is
40 relocating.

1 (5) "Professional sports franchise" means a franchise or other
2 entity operated for the exhibition of National Football League
3 games, and any affiliate organized to develop or operate a sports
4 stadium.

5 (6) "Relocating" means the termination of exhibitions of home
6 games by a professional sports franchise in a sports stadium in the
7 territory of the home local agency and the commencement of
8 performances of home games by a professional sports franchise
9 in another sports stadium located outside the territory of the home
10 local agency and developed as part of a sports stadium project.

11 (7) "Sports stadium" means a stadium, arena, pavilion, or other
12 structure or building used for holding professional athletic events.

13 (8) "Sports stadium project" means the proposed construction,
14 improvement, renovation, development, entitlement, site assembly,
15 operation, maintenance, repair, use, management, or financing of
16 a sports stadium or any related uses outside of the home local
17 agency, including, without limitation, any residential, commercial,
18 parking, open space, and other uses developed in connection with
19 the sports stadium regardless of whether these uses are located in
20 the vicinity of the sports stadium, and any infrastructure proposed
21 to be developed in connection with a sports stadium or other related
22 uses, including, without limitation, highways, interchanges, ramps,
23 streets, and other transportation and transit improvements, utilities,
24 parks, recreational facilities, and open space.

25 SEC. 2. Section 33426.8 is added to the Health and Safety
26 Code, to read:

27 33426.8. (a) Notwithstanding any other provision of law,
28 except as provided in subdivision (b), a redevelopment agency
29 shall not provide any form of financial assistance to a sports
30 stadium project that involves a professional sports franchise
31 relocating from the territorial jurisdiction of one local agency to
32 the territorial jurisdiction of another local agency but within the
33 same market area.

34 (b) This section shall not apply if the governing legislative body
35 of the community from which the professional sports franchise is
36 relocating adopts a resolution declaring that the community does
37 not object to the relocation.

38 (c) The home local agency shall have the right to assert a
39 violation of this section as a claim or defense in a judicial

1 proceeding and obtain injunctive, declaratory, or other appropriate
2 relief to enforce this section.

3 (d) As used in this section:

4 (1) "Community" has the same meaning as specified in Section
5 33002.

6 (2) "Territorial jurisdiction" has the meaning as specified in
7 Section 33120.

8 (3) "Financial assistance" includes, but is not limited to, any of
9 the following:

10 (A) Any bonds or other forms of indebtedness, including, but
11 not limited to, any tax allocation bonds or any other provision of
12 tax increment, whether on a pay-as-you-go basis or otherwise.

13 (B) Any loans, grants, subsidies, guaranties, or payments for
14 any costs of the sports stadium project or the use of the sports
15 stadium.

16 (C) Any lease or license of real property, or an interest in real
17 property, at less than its fair market value, including, but not limited
18 to, any rent credits or free rent period.

19 (D) Any sale or other conveyance of real property, or an interest
20 in real property, at less than the fair market value.

21 (E) Any tax incentive, including, but not limited to, tax
22 exemptions, credits, rebates, reductions, or moratoria, including
23 any payment based on the amount of taxes generated by the sports
24 stadium project.

25 (F) Any acquisition of real property or any interest in real
26 property to facilitate the assembly of the site for the sports stadium
27 project, including any acquisition, by voluntary sale or otherwise,
28 with public funds or with funds provided by the professional sports
29 franchise or any of its development partners.

30 (G) Any payment for, or forgiveness of, or reduction in fees.

31 (H) Any approval to provide for tax-exempt financing of any
32 part of the sports stadium project, including, but not limited to,
33 any bonds created by or recognized under any provision of the
34 Internal Revenue Code that allow private entities to use the
35 proceeds of tax-exempt bonds, such as industrial development
36 bonds or any other economic development conduit revenue bonds.

37 (I) Any other form of direct or indirect financial assistance to
38 the professional sports franchise, any of its developer partners, or
39 any of their affiliates, contractors, or agents in connection with the
40 sports stadium project.

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2 jurisdiction over territory in which there is a sports stadium that
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4 more than 30 years and where the professional sports franchise
5 has incorporated the name of the home local agency in the name
6 by which the franchise is commonly known.

7 (5) "Local agency" means a chartered or general law city, a
8 chartered or general law county, or a city and county.

9 (6) "Market area" means either (i) a geographic area that is
10 recognized by the National Football League as the territory for a
11 professional sports franchise or (ii) any other larger geographic
12 area that is described in publications of bond rating agencies or
13 independent and reputable sports market research organizations
14 as the relevant market for the professional sports franchise. A
15 "market area" shall not extend further than 100 miles, as measured
16 by the most reasonable route on roads between two points, starting
17 from the sports stadium from which the professional sports
18 franchise is relocating and ending at the facility outside the home
19 local agency to which the professional sports franchise is
20 relocating.

21 (7) "Professional sports franchise" means a franchise or other
22 entity operated for the exhibition of National Football League
23 games, and any affiliate organized to develop or operate a sports
24 stadium.

25 (8) "Relocating" means the termination of exhibitions of home
26 games by a professional sports franchise in a sports stadium in the
27 territory of the home local agency and the commencement of
28 performances of home games by a professional sports franchise
29 in another sports stadium located outside the territory of the home
30 local agency and developed as part of a sports stadium project.

31 (9) "Sports stadium" means a stadium, arena, pavilion, or other
32 structures or buildings used for holding professional athletic events.

33 (10) "Sports stadium project" means the proposed construction,
34 improvement, renovation, development, entitlement, site assembly,
35 operation, maintenance, repair, use, management, or financing of
36 a sports stadium or any related uses outside of the home local
37 agency, including, without limitation, any residential, commercial,
38 parking, open space, and other uses developed in connection with
39 the sports stadium regardless of whether these uses are located in
40 the vicinity of the sports stadium, and any infrastructure proposed

1 to be developed in connection with a sports stadium or other related
2 uses, including, without limitation, highways, interchanges, ramps,
3 streets, and other transportation and transit improvements, utilities,
4 parks, recreational facilities, and open space.

5 SEC. 3. (a) The Legislature finds and declares that the
6 provision of financial assistance by local agencies and community
7 redevelopment agencies to relocate professional sports franchises
8 from one community to another community results in the loss of
9 public funds available for public purposes, impedes the
10 implementation of sound land use and economic development
11 planning, encourages unfair economic competition among
12 communities, and does not result in public benefits to the people
13 of the state.

14 (b) The Legislature further finds and declares that promoting
15 regional economic stability by limiting financial assistance to
16 facilitate the relocation of professional sports franchises is an issue
17 of statewide concern and not a municipal affair. The Legislature
18 further finds that competition among public agencies to locate a
19 professional sports franchise distorts rational decisionmaking about
20 how to allocate scarce public resources in the best interests of the
21 various regions of the state. Therefore, it is necessary that the
22 provisions of this act apply to all cities, counties, and cities and
23 counties.

Give up fight S.F., 49ers belong to Bay Area

Posted on Thu, Jan. 11, 2007

Mercury News Editorial

Now that the 49ers and Santa Clara have shaken hands on a feasibility study for a new NFL stadium, it's time for state Sen. Carole Migden to abandon what is probably the dumbest bill introduced in the Legislature so far this year.

The only good thing we can find to say about her legislation — SB 49 — is that it's aptly numbered.

The bill would block cities (read Santa Clara) or counties from using public land to attract NFL teams within a 100-mile radius of an established team's home stadium. Santa Clara's city council Tuesday voted unanimously to conduct a six-month feasibility study with the 49ers on a new stadium on city-owned property near Great America.

Simply put, the San Francisco Democrat is doing her part to try to block the 49ers from moving anywhere in the Bay Area, or even Sacramento, for that matter.

Migden's bill is ill-conceived on many levels. But the worst part is that the proposed law could actually increase the chances that the 49ers would leave the Bay Area altogether. Most 49er fans know that if Santa Clara's effort fails, NFL football-less Los Angeles would likely welcome the 49ers with open arms.

It's legitimate to ask whether a majority of San Franciscans even really care where the team plays. The city has stood idly by for the past 15 years, knowing that its stadium, Monster Park, is an embarrassment to the team and city, offering what is likely the worst fan experience in the league.

San Francisco has repeatedly taken funds designated to maintain the quality of the stadium and redirected the money to other areas.

But the clincher? Only 10 percent of the 49ers' season ticket holders live in San Francisco.

The truth is, and Migden knows it, the 49ers are a regional asset. More than 30 percent of season ticket holders are from Santa Clara and San Mateo counties. That means any move to Santa Clara would actually be a plus for a much higher percentage of the team's fans than if the 49ers were to stay in San Francisco. And for many other fans getting to a stadium in Santa Clara would be easier than what they endure now.

SB 49? Only Terrell Owens should be less popular to the 49er faithful.